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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,763	09/29/2003	Nobuhiro Kuwamura	16869G-087800US	4461

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EXAMINER

BARTON, JONATHAN A

ART UNIT PAPER NUMBER

2186

DATE MAILED: 05/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/674,763	Applicant(s) KUWAMURA, NOBUHIRO	
	Examiner Jonathan Barton	Art Unit 2186	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is in response to the amendment filed by Applicant on 3/14/2006.

Claim Objections

1. Claims 5, 9, 17-22 are objected to because of the following informalities:
 - a. Claim 5 line 1 should read "of claim 1, further comprising".
 - b. Claim 9 line 2 should read "magnetic disk having a".
 - c. Claims 17-22 should read "number of retries".
 - d. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- e. Claims 17-22 recite the limitation "the number of retry" in line 3 of each claim. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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2. Claims 1-4, 7, 9-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Codilian et al. (US 6,462,896) in view of Gerhart (US 2002/0138692).

a. As for claims 1 and 7 Codilian discloses

i. Maintaining a first set of one or more first-parity-track[s] and a second set of second-parity-track[s] (Col. 3 Lines 5-11); and

ii. In response to a command to write data to a given first-parity-numbered track (Col. 3 Lines 20-27),

b. Codilian fails to disclose the following limitations, which are taught by Gerhart:

iii. [*for claim 1* only] counters regarding write operations of first parity-numbered tracks and second parity-numbered tracks (Par. 46 Lines 6-14);

iv. Determining based at least in part on values of counters in the first and second sets, whether a criterion is met (Par. 46 Lines 9-17),

v. Only if the criterion is met, reading data from a second-parity numbered track (Par. 46 Lines 28-33), and

vi. Updating a counter in the first set in a manner that in at least some instances depends on whether the criterion is met (Par. 46 Lines 20-24).

c. It would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the write counters taught by Gerhart with the interleaved disk tracks disclosed by Codilian because both methods are used for operating a hard disk and preventing data error, and adding the counters provides the benefit of logging the track usage in a simple and straight-forward

manner, and thus further increasing the data error prevention capabilities of the system.

d. As for claim 2 Codilian et al. disclose

vii. The first and second pluralities of track are located in a disk area and constitute a fraction of a total number of tracks on the surface of the magnetic disk (Col. 3 Lines 5-11, Col. 1 Lines 43-49);

e. While Gerhard teaches

viii. The method further comprises maintaining respective first and second additional sets of counters used to prevent data loss in an additional plurality of first-parity-numbered tracks interleaved with an additional plurality of second-parity-numbered tracks located in a different disk area (Par. 46 Lines 6-14). See paragraph 2-c. of this Office Action for the explanation of obviousness.

f. As for claim 3 Gerhard teaches

ix. The first and second sets of counters each contain a single counter (Par. 46 Lines 6-9);

x. The criterion is that the counter in the second set is non-zero, and the counter in the first set has reached a threshold (Par. 46 Lines 9-24).

xi. It would have been obvious to add this feature to the aforementioned combination of Codillan and Gerhard because it is already a useful technique/feature of Gerhard's counters.

g. As for claim 4 Gerhard teaches

- xii. The criterion is that at least one second-parity numbered track have been written (Par. 46 Lines 20-24), and
 - xiii. The number of writes to the first parity-numbered-tracks has reached a threshold (Par. 46 Lines 9-24).
 - xiv. It would have been obvious to add this feature to the aforementioned combination of Codillian and Gerhard because it is already a useful technique/feature of Gerhard's counters.
- h. As for claim 9 Codilian et al. disclose
- xv. A magnetic disk for having a surface (Col. 3 Lines 5-11);
 - xvi. A magnetic head for writing or reading the data on or from said surface of said magnetic disk (Col. 3 Lines 5-11); and
 - xvii. A write and read circuit, connected to said magnetic head, for causing said head to write or read data (Col. 3 Lines 5-11);
 - xviii. The data being written on concentric tracks on said surface of said magnetic disk, said tracks including a first plurality of first-parity-numbered tracks and a second plurality of second-parity-numbered tracks (Col. 3 Lines 5-11);
- i. Codilian fails to disclose the following limitations, which are taught by Gerhart:
- xix. A first set of one or more first-parity-track counters (Par. 46 Lines 9-24);

- xx. A second set of one or more second-parity-track counters (Par. 46 Lines 9-24);
 - xxi. Control circuitry that accesses and updates said first and second sets of counters, said control circuitry being configured to respond to a command to write data to a given first-parity-numbered track (Par. 46 Lines 9-24) by
 - xxii. Determining, based at least in part on values of counters in said first and second sets, whether a criterion is met (Par. 46 Lines 9-17),
 - xxiii. only if the criterion is met, reading data from a second-parity-numbered track (Par. 46 Lines 28-33), and
 - xxiv. Updating a counter in said first set in a manner that in at least some instances depends on whether the criterion is met (Par. 46 Lines 9-24).
 - xxv. See paragraph 2-c. of this Office Action for the explanation of obviousness.
- j. As for claim 10 Colidian et al. disclose
- xxvi. the first and second pluralities of tracks are located in a disk area and constitute a fraction of a total number of tracks on said surface of said magnetic disk (Col. 3 Lines 5-11);
 - xxvii. the magnetic disk further comprises an additional plurality of first-parity-numbered tracks and an additional plurality of second-parity-numbered tracks interleaved with the first plurality of first-parity-numbered tracks (Col. 3 Lines 5-11),

xxviii. said additional pluralities of tracks being located in a different disk area (Col. 3 Lines 5-11);

k. Codilian fails to disclose the following limitations, which are taught by Gerhart:

xxix. the magnetic disk device further comprises first and second additional sets of counters (Par. 46 Lines 9-24);

xxx. and said control circuitry further accesses and updates said additional first and second sets of counters (Par. 46 Lines 9-24),

xxxi. and is configured to respond to a command to write data to a given first-parity-numbered track in the different disk area by determining, based at least in part on values of counters in said first and second additional sets, whether a criterion is met (Par. 46 Lines 9-24),

xxxii. only if the criterion is met, reading data from a second-parity-numbered track in said different disk area, and updating a counter in said first additional set in a manner that in at least some instances depends on whether the criterion is met (Par. 46 Lines 9-24).

xxxiii. It would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the write counters taught by Gerhart with the interleaved disk tracks disclosed by Codilian for the same reasons detailed in Paragraph 2-c of this office action. This claim essentially adds a second instance of the claimed invention, and does not provide any explanation as to how this second instance further limits the

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claims or provides additional features, and as such does not add any patentable weight to the invention.

I. As for claim 11 Colidian et al. disclose

xxxiv. a magnetic disk for recording data (Col. 3 Lines 5-11);

xxxv. a magnetic head for writing or reading the data on or from the magnetic disk (Col. 3 Lines 5-11);

xxxvi. and a write and read circuit, connected to the magnetic head, for writing or reading the data (Col. 3 Lines 5-11);

xxxvii. wherein the data is written or read to or from a plurality of tracks in the form of concentric circles disposed on the magnetic disk (Col. 3 Lines 11-28); and

xxxviii. data on tracks adjacent to the given track is read out once and, then, the read-out data is rewritten to the adjacent tracks (Col. 3 Lines 11-28).

m. Codilian fails to disclose the following limitations, which are taught by Gerhart:

xxxix. wherein the number of writes of data on a given track is acquired and it is detected that the number of writes reaches a predetermined number (Par. 46 Lines 13-24), and

xl. based on the detection (Par. 46 Lines 20-24).

- xli. It would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the write counting taught by Gerhart with the interleaved disk tracks disclosed by Codilian because both methods are used for operating a hard disk and preventing data error, and adding the counting to a predetermined number provides the benefit of logging the track usage in a simple and straight-forward manner, and thus further increasing the data error prevention capabilities of the system.
- n. As for claims 12 and 13 Colidian et al. disclose
 - xlii. A magnetic disk device comprising: a magnetic disk for recording data (Col. 3 Lines 5-11);
 - xliii. a magnetic head for writing or reading the data on or from the magnetic disk (Col. 3 Lines 5-11);
 - xliv. and a write and read circuit, connected to the magnetic head, for writing or reading the data; wherein the data is written or read to or from a plurality of tracks in the form of concentric circles disposed on the magnetic disk (Col. 3 Lines 5-11);
- o. Codilian fails to disclose the following limitations, which are taught by Gerhart:
 - xlvi. and wherein all tracks on the magnetic disk are divided into a plurality of areas, the number of writes of data on even/odd-numbered

physical tracks in the divided areas is acquired and it is detected that the number of writes reaches a predetermined number (Par. 46 Lines 9-24), and

xlvi. based on the detection, data on odd/even-numbered physical tracks in the divided areas is read out once and, then, the read-out data is rewritten on the odd/even-numbered tracks (Par. 46 Lines 9-24).

xlvi. It would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the write counting disclosed by Gerhard with the even/odd track parity disk disclosed by Colidian because both methods are used for operating a hard disk and preventing data error, and adding the write counting provides the benefit of logging the track usage in a simple and straight-forward manner, and thus further increasing the data error prevention capabilities of the system.

p. As for claims 14 and 15 Gerhard teaches

xlvi. When the read-out data is rewritten on the odd/even-numbered tracks, the number of writes on the even/odd-numbered physical tracks is cleared (Par. 46 Lines 20-25).

xli. It would have been obvious to add this feature to the aforementioned combination of Colidian and Gerhard because it is already a useful technique/feature of Gerhard's invention.

q. As for claim 16 Colidian et al. disclose

r. As for claims 17-22 Gerhard teaches

lii. It would have been obvious to add this feature to the aforementioned combination of Codillian and Gerhard because it is already a useful technique/feature of Gerhard's counters.

s. As for claims 5 and 8 the depended upon claims 1 and 7 are disclosed by the combination of Codilian and Gerhart, while Shirakawa teaches

liii. If data is read from a second-parity-numbered track, determining a number of retries necessary for reading the data (Constitution);

- liv. If the number of retries reaches a threshold (Constitution)
- t. And Gerhart additionally teaches
 - lv. Writing the data read from one or more second-parity-numbered tracks to one or more second-parity-numbered tracks (Par. 46 Lines 9-24).
- u. The combination of Codilian and Gerhart is detailed in paragraph 2-c of this office action. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the retry count of Shirikawa with the disk data protection method of Codilian and Gerhart because Shirikawa's system is also for dealing with errors on a magnetic disk, and the retry count provides additional useful information to the system to help deal with errors.
- v. As for claim 6 Gerhart teaches
 - lvi. If data is written to second-parity-numbered tracks, updating a counter in the first set includes setting the counter to a value signifying a single write to a first-parity-numbered track (Par. 46 Lines 9-24). See Paragraph 2-c for motivation to combine.

Response to Arguments

- 4. Applicant's arguments filed 3/14/2006 have been fully considered but they are not persuasive.
 - w. Claims 1-4:
 - lvii. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon

which applicant relies (i.e., determining whether the criterion is met *based on that, the time required to refresh data can be reduced as it is needed only to refresh the data on the adjacent track when the number of writes on either of the counters reaches a predetermined number*) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

lviii. In response to applicant's arguments against the references individually (i.e., *There is no disclosure of providing a first parity track and a second parity track, and write counters for the tracks [in Gerhart]*), one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

lix. In response to applicant's argument that "Without disclosing a concept of refreshing data a person of ordinary skill in the art would not have been motivated to maintain the set of write counters for a couple of parity numbered tracks", the fact that applicant has recognized an alternative (or preferable) motivation for combination does not prevent Examiner's motivation to combine from being valid. This is especially pertinent based on Applicant's claims given that Applicant has not claimed a "concept of refreshing data". Since Applicant has not provided any

reasons for Examiner's motivation to combine being invalid, and all of the claim limitations are disclosed by the combination of Codilian and Gerhart the rejection of 35 USC 103(a) is sustained.

x. Claims 7, 9-10:

ix. Applicant's arguments with regard to claims 7 and 9-10 do not raise any new issues beyond those discussed with regard to claims 1-4.

Examiner reminds Applicant that he has not claimed "the objective of preventing data loss and refreshing the data at the same time."

y. Claims 11-22:

ixi. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Applicant has merely re-recited the claim language and declared that Examiner's references do not disclose the limitations.

z. Claims 5, 6, 8:

ixii. Applicant's arguments rely on an assumed deficiency in the Codilian/Gerhart rejections, and as such do not hold weight with these rejections held in place.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

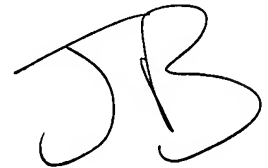
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Barton whose telephone number is 571-272-8157. The examiner can normally be reached on Monday - Friday 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matt Kim can be reached on 571-272-4182. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jonathan Barton
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